



# **SPECIAL MEETING OF THE MILPITAS CITY COUNCIL**

## **AGENDA**

**WEDNESDAY, DECEMBER 19, 2018  
MILPITAS CITY HALL  
COUNCIL CHAMBERS – 2<sup>ND</sup> FLOOR  
455 E. CALAVERAS BOULEVARD, MILPITAS, CA  
6:00 P.M.**

Councilmember Bob Nuñez will participate by telephone conference  
From La Quinta Inn Buena Park  
3 Centerpointe Drive, La Palma, CA 90623  
714-670-1400

**For assistance in the following languages, you may call:**

Đối với Việt Nam, gọi 408-586-3122  
Para sa Tagalog, tumawag sa 408-586-3051  
Para español, llame 408-586-3232

**I. CALL SPECIAL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk**

**II. PLEDGE OF ALLEGIANCE**

**III. PUBLIC FORUM**

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Those in the audience are invited to address City Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit spoken remarks to three minutes. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. Council may instruct the City Manager to place the item on a future meeting agenda.

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**IV. ANNOUNCEMENTS**

**V. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**

**VI. APPROVAL OF AGENDA**

**VII. PUBLIC HEARING**

- 1. Conduct a Public Hearing and Consider Introduction of Ordinance No. 298 to Prohibit Commercial Cannabis in the City and Regulate Cultivation of Cannabis for Personal Use (Staff Contact: Ashwini Kantak, 408-586-3053)**

**VIII. ADJOURNMENT**

**NEXT REGULAR CITY COUNCIL MEETING**  
**TUESDAY, JANUARY 15, 2019**

**KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE**

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions and other agencies of the City exist to conduct the people's business.

This ordinance assures that deliberations are conducted before the people  
and the City operations are open to the people's review.

For more information on your rights under the Open Government Ordinance or to report a violation,  
contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035

e-mail: [cdiaz@ci.milpitas.ca.gov](mailto:cdiaz@ci.milpitas.ca.gov) / Phone: 408-586-3040

*The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) by selecting the Milpitas Municipal Code link.*

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3<sup>rd</sup> floor 455 E. Calaveras Blvd., Milpitas and on the City website. All City Council agendas and related materials can be viewed online here: [www.ci.milpitas.ca.gov/government/council/agenda\\_minutes.asp](http://www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp) (select meeting date)

**APPLY TO SERVE ON A CITY COMMISSION**

Commission application forms are available online at [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) or at Milpitas City Hall.

Contact the City Clerk's office at 408-586-3003 for more information.

*If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, please call the City Clerk at 408-586-3001 or send an e-mail to [mlavelle@ci.milpitas.ca.gov](mailto:mlavelle@ci.milpitas.ca.gov) prior to the meeting. You may request a larger-font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the City Council Chambers for all meetings.*

## **AGENDA REPORT**

### **VII. PUBLIC HEARING**

1. **Conduct a Public Hearing and Consider Introduction of Ordinance No. 298 to Prohibit Commercial Cannabis in the City and Regulate Cultivation of Cannabis for Personal Use (Staff Contact: Ashwini Katak, 408-586-3053)**

**Background:** On November 9, 2016, State Proposition 64 to legalize adult use of cannabis or marijuana was approved by the voters. On January 17, 2017, Urgency Ordinance No. 291 to place a temporary moratorium on certain cannabis-related activities was adopted by the City Council so as to allow time for the City Council and the community to decide on if, when, and how to allow cannabis activities in Milpitas. The temporary moratorium has been extended twice and will expire on January 17, 2019. No additional extensions may be granted, so a permanent ordinance to replace the moratorium needs to be adopted.

The City Council Subcommittee on Cannabis (Subcommittee) was formed and began meeting in February 2017 to review and recommend potential options for cannabis zoning, ordinances, and tax measures for City Council consideration. At the August 7, 2018 City Council meeting, staff was directed not to move forward on the cannabis tax measure and to instead bring back other options in allowing cannabis establishments to the Subcommittee and subsequently to the City Council. A draft zoning ordinance allowing certain commercial cannabis retail and testing laboratory uses was considered by the Planning Commission on October 24, 2018, and was brought forward for Council consideration on November 20, 2018 along with a companion regulatory ordinance. However, after hearing a significant amount of public testimony supporting a ban on commercial cannabis in the City, the City Council directed staff to bring back a revised ordinance permanently banning commercial cannabis activity and regulating the cultivation of cannabis for personal use.

With this change in direction, staff had to ensure that it could meet all legal notification requirements and still meet the January 17, 2019 deadline to have a replacement ordinance in place. Based on the notification and public hearing requirements for both Planning Commission and City Council, a replacement ordinance was not able to be in place by the deadline. Thus, staff proposed bringing forward an urgency ordinance, in addition to the regular permanent ordinance. This would allow the urgency ordinance to go into effect immediately upon adoption and provide local regulations in the 30 day period between which a regular ordinance is adopted and goes into effect. The urgency ordinance will be presented to the City Council at its regular meeting on January 15, 2019.

**ANALYSIS:** On December 6, 2018, a special Planning Commission meeting was convened to consider a City-initiated zoning ordinance text amendment (Zoning Text Amendment ZA18-0004) to prohibit commercial cannabis activities within the City of Milpitas and to regulate the cultivation of cannabis for personal use citywide. The proposed regulations would prohibit all medical and adult-use commercial cannabis activities, including but not limited to, commercial cultivation, delivery, distribution, manufacturing, microbusinesses, retail/dispensaries and testing laboratories. The proposed ordinance would also regulate indoor cultivation of cannabis for personal use and prohibit outdoor cultivation of cannabis for personal use as permitted by State Law.

#### **Planning Commission Recommendations**

The Planning Commission voted 4-1 to recommend the zoning text amendment, as proposed by staff, to City Council. The Planning Commission thereafter adopted Resolution 18-022 recommending that the City Council adopt Zoning Text Amendment ZA18-0004.

The table below shows the timeline for two replacement ordinances, urgency and regular, to be adopted in order to replace the cannabis moratorium ordinance:

<b>Table 1</b>		
<b>Day of Week</b>	<b>Date</b>	<b>Action</b>
<b>Wednesday</b>	<b>December 19, 2018</b>	Special City Council meeting to introduce regular ordinance to ban commercial cannabis activities
<b>Tuesday</b>	<b>January 15, 2019</b>	Regular City Council meeting for adoption of urgency ordinance (to take effect immediately) and regular ordinance (to take effect 30 days later on February 14, 2019)
Thursday	January 17, 2019	Cannabis moratorium ordinance expires
Thursday	February 14, 2019	Regular ordinance banning commercial cannabis and regulating cultivation of personal cannabis takes effect

**Fiscal Impact:** No fiscal impact as a direct result of this recommendation, however, there may be additional enforcement costs related to illegal commercial or personal cannabis activity. Depending on the level of enforcement required, staff may bring forward recommendations for specific penalties that differ from the default penalties under the zoning code.

**California Environmental Quality Act (CEQA):** The Ordinance prohibits commercial cannabis businesses and outdoor personal cannabis cultivation from establishing or occurring in the City and therefore will maintain current development levels. Therefore, this Ordinance has no potential for resulting in physical change in the environment, directly or indirectly, or for causing a significant effect on the environment. Accordingly, this Ordinance is exempt from environmental review pursuant to tCEQA Guidelines Section 15060(c)(3) and Section 15061(b)(3).

**Recommendations:**

1. Open the Public Hearing and move to close it following any speakers;
2. Following a reading aloud of the title of Ordinance No. 298 by the City Attorney, move to waive the first reading beyond the title;
3. Introduce Ordinance No. 298 to prohibit commercial cannabis in the City and regulate cultivation of cannabis for personal use.

**Attachments:**

- a) Ordinance No. 298 for 1<sup>st</sup> reading and introduction
- b) Emails from residents

**VIII. ADJOURNMENT**

**NEXT REGULAR CITY COUNCIL MEETING**  
**TUESDAY, JANUARY 15, 2019**